

UPDATED INFORMATIVE DIGEST

Current Residential Care Facilities for the Elderly (RCFE) regulations include specific requirements for admission agreements between RCFE licensees and residents, such as services made available, payment provisions, modification conditions, refund conditions and other policies and procedures that pertain to the admission agreement. These proposed regulations will enact the following specified legislation: (1) Senate Bill (SB) 1898, Statutes of 2002; (2) SB 211, Statutes of 2003; (3) SB 540, Statutes of 2003; (4) SB 1662, Statutes of 2004; (5) Assembly Bill (AB) 179, Statutes of 2005; (6) SB 141, Statutes of 2005; (7) AB 949, Statutes of 2007; (8) SB 781, Statutes of 2009 and AB 261, Statutes of 2013.

The SB 1898 added requirements regarding fees, deposits and refund conditions.

The SB 211 added admission agreement requirements pertaining to format, descriptions and conditions for provisions, prohibitions, billing, payment, refund policies, termination conditions and rate increases.

The SB 540 added a requirement that RCFE licensees provide, under specified circumstances, written information about health-related programs and services prior to admission and specified the manner in which it is to be provided to the prospective resident.

The SB 1662 required RCFE licensees to provide notice to a resident of a rate increase and specified what must be contained in the notice.

The AB 179 required the personal rights form attached to admission agreements to include information on the reporting of suspected/known elder and dependent adult abuse. This bill also required that the form included information on how to contact the Long-Term Care Ombudsman.

The SB 141 required admission agreements to include information regarding preadmission fee refunds, including the conditions, timeframes and amounts.

The AB 949 required admission agreements to include an explanation of the RCFE licensee's responsibilities regarding preadmission fee refunds, relocations, closures and evictions. This bill also required admission agreements to state licensee responsibilities and resident rights when a facility evicts a resident.

The SB 781 required a RCFE licensee who sends an eviction notice to a resident to include in the notice to quit the reasons for the eviction, with specific facts regarding the date, place, witnesses and circumstances concerning the reasons.

The AB 261 prohibited a RCFE from requiring advance to terminate an admission agreement upon the death of a resident.

Admission agreements specify the type of care that a resident will receive during their stay at a RCFE. Therefore, these agreements are an important consumer protection for RCFE residents and prospective residents.

These regulations will expand requirements for admission agreements, increase understanding of the roles and responsibilities of residents and licensees and empower residents and prospective residents with the knowledge they need to make informed decisions about their care.

Post-hearing changes:

The regulations were noticed on December 18, 2015. Testimony was received during the 45-day public comment period and changes were made to the proposed regulations as a result of the testimony. Those changes include:

Amending Section 87507(b) by adding the phrase "...in accordance with the Public Utilities Code sections 2881(a) and (c)" to clarify what constitutes "otherwise disabled."

Amending Section 87507(d) to make clear that this regulation does not alter the requirement already set forth in Health & Safety (H&S) Code section 1569.655, which requires specified notice be made regarding rate increases, but does not require a signature of the resident or resident's representative.

Amending Section 87507(g)(3)(A)(1) to clarify that the licensee shall list in the admission agreement a comprehensive description of all items and services that are provided under a single fee, not the specific charge for each item under the single fee.

Amending Section 87507(g)(3)(B)(1) to clarify that the licensee list in the admission agreement a comprehensive description of and corresponding fee schedule for all items and services not included in the single fee.

Amending Section 87507(g)(3)(B)(4) to clarify that the statement, signed by the resident or resident's representative, is specific to "additional services that were not available at the time the admission agreement was signed," not all optional services.

Amending Section 87507(g)(3)(H) to clarify that the admission agreement shall include a provision "indicating" that an itemized monthly statement shall be provided to the resident or resident's representative.

Amending Section 87507(g)(5)(B)(1) to clarify that the licensee shall refund any prepaid monthly fees if a licensee forfeits their license upon the sale or transfer of the facility "resulting in resident's transfer."

Amending language in Sections 87507(g)(5)(C) and (g)(5)(C)(1) and adding Section 87507(g)(5)(C)(2) to clarify that a refund of prepaid monthly fees shall be given for any condition as specified in Sections 87507(g)(5)(B)(1) through (2).

Amending Section 87507(g)(5)(D)(3)(b) to reference "paid preadmission fees" instead of "prepaid admission fees" and to broadly reference H&S Code section 1569.525(f).